

CHAPTER 116

BROWNFIELDS AND GRAYFIELDS REDEVELOPMENT TAX CREDIT PROGRAM

S.F. 514

AN ACT relating to the administration of the redevelopment tax credit program for brownfields and grayfields and including retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.119, subsection 2, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The redevelopment tax credit program for brownfields and grayfields administered pursuant to sections 15.293A and 15.293B.

Sec. 2. Section 15.119, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. In allocating the amount of tax credits authorized pursuant to subsection 1 among the programs specified in subsection 2, the department shall not allocate more than five million dollars for purposes of subsection 2, paragraph "f".

Sec. 3. Section 15.291, subsection 5, Code 2011, is amended to read as follows:

5. "Qualifying investment" means the purchase price, the cleanup costs, and the redevelopment costs that are directly related to a qualifying redevelopment project and that are incurred after the project has been registered and approved by the board. "Qualifying investment" only includes the purchase price, the cleanup costs, and the redevelopment costs.

Sec. 4. Section 15.292, subsections 1 and 4, Code 2011, are amended to read as follows:

1. The department shall establish and administer a brownfield redevelopment program for purposes of providing financial and technical assistance for the acquisition, remediation, or redevelopment of brownfield sites. Financial assistance under the program shall be provided from the brownfield redevelopment fund created in section 15.293. Technical assistance under the program shall be in the form of providing an applicant with assistance in identifying other alternative forms of assistance for which the applicant may be eligible. The department may provide information on alternative forms of assistance.

4. An application for assistance under the program shall include any information required by the department including, ~~but not limited to, all of the following:~~

- a. A business plan which includes a remediation plan.
- b. A budget for remediating or redeveloping the site.
- c. A statement of purpose describing the intended use of and proposed repayment schedule for any financial assistance received by the applicant.
- d. Evidence of sponsorship.
- e. Other information the department deems necessary in order to process and review the application.

Sec. 5. Section 15.293A, subsections 2, 6, 7, 8, and 9, Code 2011, are amended to read as follows:

2. a. (1) The department shall accept and, in conjunction with the council and the board, review applications for tax credits pursuant to this section.

(2) Upon review of an application, the department may register the project under the program. If the department registers the project, the department shall, in conjunction with the council and the board, make a preliminary determination as to the amount of tax credit for which the investor qualifies.

(3) After registering the project, the department shall issue a letter notifying the investor of successful registration under the program. The letter shall include the amount of tax credit for which the investor has received preliminary approval. The letter shall state that the amount is a preliminary determination only. The amount of tax credit included on a certificate issued pursuant to this section shall be contingent upon completion of the requirements of subparagraphs (4) and (5).

(4) Upon completion of a registered project, an audit of the project, completed by an independent certified public accountant licensed in this state, shall be submitted to the department.

(5) Upon review of the audit and verification of the amount of the investment, the department may issue a certificate to the investor stating the amount of tax credit the investor may claim.

~~b. (1) To claim a redevelopment tax credit under this section, a taxpayer must attach one or more tax credit certificates to the taxpayer's tax return. A tax credit certificate shall not be used or attached to a return filed for a taxable year beginning prior to July 1, 2009. The tax credit certificate or certificates attached to the taxpayer's tax return shall be issued in the taxpayer's name, expire on or after the last day of the taxable year for which the taxpayer is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the taxpayer's tax return.~~

~~b. (2) After verifying the eligibility of a qualifying investor for a tax credit pursuant to this section, the department of economic development shall issue a redevelopment tax credit certificate to be attached to the investor's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the credit, the name of the qualifying investor, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.~~

~~e. (3) The tax credit certificate, unless rescinded by the board, shall be accepted by the department of revenue as payment for taxes imposed pursuant to chapter 422, divisions II, III, and V, and in chapter 432, and for the moneys and credits tax imposed in section 533.329, subject to any conditions or restrictions placed by the board upon the face of the tax credit certificate and subject to the limitations of this section.~~

~~d. (4) Tax credit certificates issued under this section may be transferred to any person or entity. Within ninety days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue.~~

~~e. (5) Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the department of economic development shall not be transferable.~~

~~f. (6) A tax credit shall not be claimed by a transferee under this section until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V, under chapter 432, or against the moneys and credits tax imposed in section 533.329. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V, under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~

~~6. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits issued by the department shall not exceed one million dollars. The department shall not issue tax credits pursuant to this section in subsequent fiscal years unless authorized pursuant to this subsection. For each subsequent fiscal year, the amount of tax credits that may be issued by the department shall be subject to the limitation in section 15.119.~~

~~7. An investment shall be deemed to have been made on the date the qualifying redevelopment project is completed. An investment made prior to January 1, 2009, or after June 30, 2010, shall not qualify for a tax credit under this part.~~

~~8. A qualifying redevelopment project that is not completed within thirty months after issuance of an approval for the project by the board shall cease to be eligible for a tax credit~~

~~pursuant to this section, however, the board in its discretion may provide for an additional twelve-month period in which to complete a project. A registered project shall be completed within thirty months of the project's approval unless the department, with the approval of the board, provides additional time to complete the project. A project shall not be provided more than twelve months of additional time. If the registered project is not completed within the time required, the project is not eligible to claim a tax credit pursuant to this section.~~

9. The department shall develop a system for registration and authorization of projects receiving tax credits authorized pursuant to this part and shall control distribution of all tax credits distributed to investors pursuant to this part. In developing the system, the department shall provide for a list of applicants for the tax credit and maintain it from year to year so that if the maximum aggregate amount of tax credits available under the program is reached in one year, an applicant can be given priority consideration for the credit in an ensuing year.

Sec. 6. Section 15.293A, subsection 12, Code 2011, is amended by striking the subsection.

Sec. 7. Section 15.293A, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 14. This section is repealed on June 30, 2021.

Sec. 8. Section 15.293B, subsection 1, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

1. The department shall accept and review applications for tax credits pursuant to section 15.293A and, with the approval of the council, make recommendations regarding the applications to the board.

Sec. 9. Section 15.293B, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

An investor applying for a tax credit shall provide the ~~council~~ department with all of the following:

Sec. 10. Section 15.293B, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 4. This section is repealed on June 30, 2021.

Sec. 11. Section 15.294, subsection 4, Code 2011, is amended to read as follows:

4. The council, in conjunction with the department, shall consider applications for redevelopment tax credits as described in sections 15.293A and 15.293B, and ~~the council may approve~~ may recommend to the board which applications to approve and the amount of such tax credits ~~for qualifying investments in qualifying redevelopment projects that each project is eligible to receive.~~

Sec. 12. RETROACTIVE APPLICABILITY. The sections of this Act amending sections 15.291 and 15.293A apply retroactively to January 1, 2011, for tax years beginning on or after that date.

Approved June 9, 2011